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ABSTRACT

The guide outlines a course to provide high school students with learning experiences in the political/governmental and legislative process. Designed as a semester course, the course aims to teach American Indian youth their rights and responsibilities under the U.S. Constitution and under their respective state and tribal governments, and to develop an awareness and an understanding of the concepts, principles, and functions of student rights and responsibilities both within the school and community environment. Consisting of 11 units, the course covers basic types of educational systems and laws, jurisdiction of courts, sources of law, the Bill of Rights, the right to privacy, student body constitution, due process in the school and in the community, the Indian Bill of Rights, voter education, fair trial/free press, consumer rights and responsibilities, and sources of authority for Indian schools and programs relating to American Indians. Briefly discussed are the course objectives, student competencies, student evaluation, and teaching strategies for law focused education (small groups, peer teaching, films, field trips, speakers, simulation games, and case studies). Also included are a 19-item bibliography and lists of 6 law-related audiovisuals (source, series, film title, and level) and 6 supplemental materials. (NQ)

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CURRICULUM BULLETIN NO. 18.01

STUDENT RIGHTS AND RESPONSIBILITIES

A LAW FOCUSED CURRICULUM

FOR

AMERICAN INDIAN HIGH SCHOOL STUDENTS

U S DEPARTMENT OF HEALTH, EDUCATION & WELFARE
NATIONAL INSTITUTE OF EDUCATION

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TO THE TEACHER:

It is with pleasure that the Phoenix Area Office and the Central Office make available to all Bureau of Indian Affairs teachers the Curriculum Guide on "Student Rights and Responsibilities: A Law Focused Curriculum." Mr. Fred Wilson who teaches the course and prepared the guide, and Mr. Noel Sc[illegible] Superintendent of Sherman Indian High School, are to be congratulated on their leadership in this basic aspect of the lives of American Indian youth. We believe that accomplishments such as are reflected in this guide are a credit to the high caliber of Education personnel in the Phoenix Area in particular and to the Bureau of Indian Affairs in general.

As the guide is used, it is important to keep in mind the necessity for teaching Indian youth their rights and their responsibilities under the Constitution of the United States and under their respective State and tribal governments. This guide, we believe is a useful tool in achieving this goal.

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F O R E W O R D

The basic purpose of this Guide has been stated on the previous page in the letter "To the Teacher." In addition to this basic purpose, this Curriculum Bulletin is part of an overall program innovation of the Bureau of Indian Affairs aimed at improving the teaching of rights and responsibilities of citizens in this country, with special emphasis on American Indian youth. The importance of American Indian youth knowing their rights and responsibilities as citizens of the United States, citizens of states and members of tribes cannot be over-emphasized. After all, it is on the shoulders of today's youth that tommorrow rests.

Recently, the Bureau developed and published Curriculum Bulletin No. 18 titled, "Guidelines for Teaching Concepts of Fairness, Justice, and Democracy in BIA and Tribal Contract Schools." The Guide that follows is more detailed and comprehensive and is especially for the high school student. It is a companion to the concepts taught in the earlier Guide. This Guide is very readable and while it was written for the teacher, there are parts of it that students will find informative and helpful.

The scope of this Guide is very comprehensive and covers rights and responsibilities under tribal governments as well as those under the Federal Constitution. It is possible that a teacher may not want to teach all units and would want to select one or a few. The Guide is designed in such a manner that individual units may be selected and developed for meeting the special needs of students in most any Bureau of Indian Affairs high school. The Guide has admirable flexibility in this respect.

It is noteworthy that the Guide contains two Units that relate specifically to the legal role of American Indians in the United States. This refers specifically to Units #7 and #8 which are titled "The Indian Bill of Rights" and "Sources of Authority for Indian Schools and Programs Relating to American Indians," respectively. The teaching of these two Units alone is highly recommended.

Upon reading the Guide, you will find that it is not overwhelming in length but truly reflects the definition of a "Guide." One is not swamped with references and suggested activities. Rather, the basic ideas and references necessary to the Guide are complete and comprehensive. The Guide is developed in such a manner as to depend on the individual teacher expanding and adapting the materials and suggestions. The Guide is appropriately basic.

After reading the Guide, the teacher and the administrator will realize that it has implications for the entire school. The uses of the Guide to influence the entire school administration are built in. That is, to use the Guide in its entirety requires the existence of certain overall school practices in student rights and responsibilities. The Guide fits well and reflects well

the administration of the school in which it was developed and in which it is taught, namely, Sherman Indian High School. Therefore, it is hoped that the Guide will be useful beyond the limitations of the immediate classroom in which it is taught. School administrators will find it interesting to read and helpful to their overall school program.

In closing, it should be mentioned that there are perhaps other teachers and administrators in Bureau of Contract Schools who would like to submit for consideration as a BIA Curriculum Bulletin, Guides they have developed and found successful. You are encouraged to submit them to the Indian Education Resources Center for review and evaluation. One of the most important characteristics of such Guides is that they have been tried and tested in classrooms of American Indian children and youth - and this is a basic quality that is difficult to buy on the open market.

P R E F A C E

It is the intention of this curriculum guide to provide the teacher and the student with a general learning experience in the study of Student Rights and Responsibilities.

It is not our intent nor the intent of this guide to produce lawyers or scholars of Constitutional Law, but to develop within the student an awareness and understanding of the concepts of rights at the School, State, and National level in relationship to the students Social, Economic, and Political world.

Through an awareness and understanding of student rights and responsibilities each individual should be better equipped to play an active useful role in society after leaving the high school environment.

In addition this guide should furnish the student and the teacher a framework and area of limitations in their approach to the learning experiences concerning involvement in public service, the real world of "politics," government functions, and everyday life of the world in which we live.

Learning, understanding, involvement, and sharing our way of life with others is the very situation with which we are faced every day of our lives. Reality is sometimes hard to face, yet if we cannot understand how our lives relate to the governmental processes around us, how do we change the undesirable to the desirable, the bad laws for good laws, the inhumane punishments for more humane punishments, become better equipped to play our role in society, and seek to reach fair and reasonable solutions to our practical every day problems that only we can solve.

Our school, community, home, dormitory life, classroom activities and every minute of our waking hours demands of us the responsibility to better understand not only our rights but the rights of others in a more "fair and reasonable" manner. Because people have assumed and shouldered this responsibility we as a nation have existed for almost 200 years with a single form of government that no other nation in the world has enjoyed.

We would like to thank the Superintendent of Schools, Mr. Noel D. Scott, Mr. Farrell Whitey of the Phoenix Area Office (BIA) Coordinator of Special Projects and all of the other wonderful people who have encouraged us to become involved in the area of student rights and responsibilities, and have provided wholehearted support in the success of this guide and program.

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O V E R V I E W

This Program (Course) of Student Rights and Responsibilities (SRR) is designed as a Semester Course to provide High School students with learning experiences in the political/governmental and legislative process.

Through the Program Design, students will develop an awareness and an understanding of the concepts, principles, and functions of Student Rights and Responsibilities both within the school and community environment.

This Program is a mixture of innovative printed and audio-visual materials which have been designed to enable and guide the student toward a path of positive, active involvement in his or her own social, economic and political role after leaving the high school environment.

Through involvement in positive learning experiences such as role playing, simulation games, and other related activities, the student will be motivated to achieve at a higher level academically in the social studies area.

O B J E C T I V E S

Upon completion of this course the student will have gained new useable knowledge in the area of Student Rights and Responsibilities both in the school and community environment.

Upon completion of this course the student will have gained skills in the area of communication and civic responsibility that can be applied to their every day life in his or her own role as a citizen of the community in which they live, their home state, and the United States of America.

The student will gain knowledge of his or her constitutional rights that can be applied in a practical manner in what ever part of society they choose to take an active part in.

The student will gain knowledge that will provide him or her with the concepts and principles of political/governmental functions in the real world of public service or tribal affairs whichever they desire to take part in.

The student will gain both knowledge and skills useful to them in problem solving, the decision making process, analytical thinking and develop a curiosity which will enable them to demonstrate skills of leadership at the highest level in the Student Body Government and Legislative Process.

The student will gain knowledge that will enable him or her to successfully pass both oral and written examinations in the Student Rights and Responsibility course.

The student will demonstrate a significant change in attitude toward the Social, Political/Governmental, and Economic values of our environment by the end of this course.

I N T R O D U C T I O N

Ignorance is no excuse, we are presumed to know the law. It is the binding principle that holds us accountable for our daily acts. From birth to death we are concerned with law, ownership of property, health, safety, and welfare of others. We have "inalienable rights," constitutional rights, civil rights, tribal rights, and many other rights under law, yet these rights have very little meaning unless we accept the responsibility that goes with these rights.

If we accept our rights under law, we must exercise a knowledge of the law and how it functions. The decision-making process of developing laws, the legislative process of making the laws and the executive enforcement of the laws is our responsibility.

There are several ideas we must accept in our study of rights and responsibilities under law.

(1) Law is not an exact science. It deals with variables of human life. Its decisions must be made in a field of human emotions and relationships. The law must pass upon the constantly changing responsibilities of people in their relationship to society. It cannot be measured in terms of inches, feet, or pounds, but upon the degree of guilt or innocence of the individual and the influences which cause an individual to break the law.

(2) The law is made up of many conflicting rules and does not point to any single final answer or solution. Judges of the highest court of the land often voice different opinions on some of the most important legal issues of the day. There have been thousands of cases decided in our courts that contradict each other in principle.

(3) The law is very difficult to define in this country because we have different sets of laws in each state, plus the laws given to us by our Federal government. It is true that there is a common thread of similarity running through the laws of all states, but yet, we are on dangerous ground when we make generalizations about the law.

(4) Our judicial system provides us with an appeal system of the rulings of the lower courts to highest courts of the land. What the law is at the time of a decision by a lower court, may be changed by a decision of a higher court.

(5) Our laws are constantly being changed and reappealed when they are found to be unworkable or unacceptable to the people.

(6) The constitutionality of the law is never determined until it is tested in the courts. Consequently, we sometimes have to obey a bad law until it is changed or repealed. The decision to test a law is made when someone violates the law or brings up the constitutionality of the law in some other way.

The chances are that somewhere along the way in your life, you will have to go to court, you may win or lose in court, but the decision will be very important to you. Sometimes you will win when you should lose, sometimes you will lose when you should win. This is the nature of the law.

Due process in our system of laws is our way of life, justice is afforded to all, including those who are not even citizens of our country. Therefore if we understand our responsibility to our way of life we have a workable system of rights.

As students, teachers, and citizens, we have a responsibility to ourselves to learn and understand the concepts, principles, and values of our constitution

that will continue to create an environment for the protection and survival which will insure the pursuit of happiness, life, and liberty, the rights and freedoms that have become our way of life and for those who follow us for generations to come.

TEACHING STRATEGIES FOR LAW FOCUSED EDUCATION

The focus in social studies education today is on a conceptually-organized, inquiry-oriented approach to learning. In this process students learn to define problems, formulate questions, classify information, draw inferences identify alternatives, and so on. By so doing, they develop skills in analysis which, hopefully, will enable them to apply the content of their studies to a variety of new situations.

Central to this "inquiry method" is the use of directed discussions, in which students' views are questioned and challenged in an attempt to develop their thinking ability. (Straight expository lectures, while sometimes needed, should be limited to less than half a class period, or else interspersed with considerable discussion). Questions should encourage students to express and justify various points of view. This can also be used to facilitate students' getting in touch with their feelings on an issue (in other words, how would they feel if they were the person or persons involved in a particular situation?).

In studying legal issues such as those involved in Fair Trial Free Press there are often no "right" answers; strong cases can sometimes be made for opposite sides of a particular issue. In inquiry, discussions should not be the search for acceptable answers. An effort must be made to create an anxiety-free classroom atmosphere where each student feels able to express

his or her own informed point of view. Both students and the teacher should come to accept the difference between a search for factual information and questioning related to values that concern fairness. Since law involves an effort to achieve some measure of justice by balancing competing interests, it may be impossible to find "correct" answers to such problems. The purpose of the inquiry process is to explore fully the options open to the individual and to society in an attempt to balance liberty and fairness with order.

The inquiry approach is a teaching strategy which improves through use. Teachers should not become discouraged if it seems an uncomfortable style at first--the skill can be developed by practicing it in conjunction with materials such as those included in this manual. By facilitating but not dominating, by playing the role of skilled questioner and the non-judgmental moderator, the teacher will help his or her students to explore their values, ideas, and feelings, and grow in their ability to anticipate the consequences of the various choices open to them.

Vocabulary and Terminology: The proper and precise use of terminology is very important in discussing legal and criminal issues, so students should be encouraged to keep a page in their notes to list new words which are brought up in the readings or classroom discussion. Often terms are used by both adults and young people who feel they are familiar with their meanings, but in reality there are important distinctions which need to be stressed to avoid confusion; e.g., between or among felony and misdemeanor; larceny, burglary, and robbery: probation and parole; acquittal and dismissal, etc.

Other Strategies:

A. *Small Groups: In large classes it is difficult to involve all the students in a discussion without having a few of the more vocal ones dominate the rest. Whenever possible, the class should be broken down into small discussion groups, with a spokesman from each group designated to report back to the entire class.*

This will greatly improve student interest and involvement in the subject matter. The small groups might be given specific tasks to accomplish if this were appropriate, such as to develop the prosecuting or defense attorney's arguments in a specific case.

A particularly useful technique in small-group discussions is what is known as the fishbowl. As the name implies, some of the students are the "fish" inside while others remain outside the "glass" and look in. The teacher should select a small number of students to sit in the middle of the room to discuss or debate a particular question. The rest of the class arranges themselves around the outside of the small circle as observers and listeners to monitor the discussion (they may even be asked to keep written notes on the course of discussion or participation by individual students within the circle). After awhile, the teacher should have the students reverse roles, with the observers becoming participants and vice versa.

B. *Peer Teaching: Individuals or small groups can be assigned (or hopefully will volunteer) to do indepth research on particular subject areas not covered adequately in the core text or manual. They can then be effectively used as peer teachers, sharing their knowledge with other*

students. They might even wish to prepare a one or two-paged ditto master summarizing their findings or statistical data which can then be duplicated and handed out to the rest of the class for reference. The peer teaching approach is particularly useful when small student "task forces" have had the opportunity to interview individuals or have actual field experiences in community justice agencies, and are ready to report back to the entire group on what they learned.

C. Films: There are many useful filmstrips and films being developed in the area of law-related education which can serve as good springboards for discussion. All films should always be previewed by the teacher before classroom use. It is the usual custom of teachers to show an entire film and then follow it with questions. However, this is not always the most effective method of use, since questions and issues will come up during the film, especially if it depicts a case study or a sequence of procedures involving criminal law. In previewing the film, determine the particular points (e.g., after the incident has occurred, after the lawyer's arguments, etc.), at which the film can be stopped for discussion of the facts or issues involved when it is being shown to the students.

D. Outside Speakers and Field Trips: As a change of pace, and for amplification on a particular subject, outside personnel can be invited to school to give in-class presentations and conduct question and answer sessions. Such resource people should be carefully selected and their purpose in being there should be precisely defined to avoid later difficulties. Often the students in the class can be helpful in providing the contacts with their own parents or people they know who are police chiefs, social workers, probation officers, etc. Resource

persons do not even have to be so-called "V.I.P.'s" For instance, an interesting class discussion might arise with a few young people who had spent a month in the county's detention center, or a local merchant talking about his problems with shoplifting.

Field trips outside the classroom can be useful, if they are well planned, in integrating the curriculum with the activities of the community, of which the school is a part. Caution should be taken however, to avoid becoming locked into public relations tours of facilities which do not accurately reflect institutions as they really are. Also, sensitivity is needed to assure that people being observed do not feel that they are exhibits on display. For example, if the teacher for the class arranges to visit a drug rehabilitation center or a juvenile house of detention, every effort should be made to see that students have a chance to talk <u>with</u> the young people who are residents there in an informal "rap session." Field trips can also be of the type in which a couple of students make appointments to interview individuals, e.g., Public Defender, District Attorney, etc.

E. <u>Other Ideas</u>: The variety of interesting methods for approaching a curriculum in legal education is limited only by the time available and the energy and imagination of the teacher and his or her students. Opinion polls can be conducted, formal debates held, examples from literature (stories, plays, fables, allegories, etc.), introduced to illustrate legal principles, and so on. By following some of the suggestions described in this introductory section as the teacher proceeds through the material in this manual, a worthwhile, challenging, and educational experience can be afforded the students as they struggle with their roles in a society under the rule of law and justice.

Role-Playing and Simulation Games:

Role playing is another classroom technique which can be very useful in law-related education. The main purpose of this method is to develop students' abilities to emphathize with individuals different from themselves and points of view different from their own, to learn how it feels to be in someone else's shoes for a short while. This promotes active student involvement in taking the role of attorneys, probation officers, policemen, judges, or public officials in simulated true-life situations. A full scale role-playing activity requires considerable time and effort on the part of the teacher and/or students so that participants have an adequate understanding of the responsibilities and duties associated with each role. Without such preparation, the time spent in the simulation may be pointless.

Simulations can be designed for institutional settings such as a school disciplinary hearing, a juvenile court disposition, or a Supreme Court trial. The specific roles involved can be assigned to the students, and a set of procedures is followed, with possible time limits for such processes as opening arguments, cross-examination, deliveration, and decision. The teacher may wish to participate in role-playing exercises by assuming roles such as chairman of a town meeting, Chief Justice of the Supreme Court, or a juvenile judge. This provides that opportunity to insure that proper procedures are followed and can serve to demonstrate to students how the role might actually be carried out.

Apart from these more elaborate role-playing situations, quickly arranged dramatizations (such as a "Stop-and-frisk" procedure on the street or a confrontation between a student and school librarian over stolen books), can be used to enliven a classroom presentation and to help vividly illustrate the case under consideration.

While the enactment of the simulated event should, in itself, be instructive to students, it is essential for the class to have a "debriefing session" (a critique or post-discussion) after the role play is over. This discussion should bring out an awareness of the most outstanding considerations of such hearings, trials, or situations so that the students do not leave the activity with poorly developed or mistaken conclusions.

How to Find Legal Cases:

Any case which has been adjudicated in a court of law is given a title and reference letters and numbers. The "citation" as it is called, which follows the title of the case (plaintiff v. defendant), indicates what court decided the case and when and where the decision is printed. Therefore, if a teacher or student wishes to consult the text of a decision on a case cited in this manual or elsewhere, he or she ought to be able to find it in a law library. There are law libraries at all college and university law schools and in the Federal Court Buildings and State House. If still at a loss, there will usually be someone there willing to help a "bewildered layman."

Use the following examples as a guide:

(1) Tinker v. DesMoines Independent Community School District, 393 U.S. 503 (1969). The letters "U.S." indicate that this case was decided by the United States Supreme Court, the highest court in the Country, and can be found in the United States Reports. From the numbers, it becomes clear that the case is located in Volume 393 of the U.S. Reports at page 503, and that it was decided in 1969.

(2) Richards v. Thurston, 424 F. 2d. 1281 (1st. Cir. 1970). This case is found in volume 424 of the Federal Reporter, Second Series, at page 1281. Cases found in the Federal Reporter ("Fed.") or Federal Reporter, 2nd Series ("F., 2d") were decided by the United States Courts of Appeals, of which there are eleven - one level below the Supreme Court. In this one, the notation within the parenthesis indicates the case was decided by the Court of Appeals for the First Circuit in 1970.

(3) *Hammond v. South Carolina State College 272 F. Supp. 947 (D.S.C. 1967).* The Federal Supplement ("F. Supp.") reports for the most part, cases from the United States District Courts, of which there are one or more in each state. This case, found in volume 272 of the Federal Supplement at page 947, was decided by the U.S. District Court for the District of South Carolina in 1967.

(4) *State Board of Education v. Board of Education, Netcong 57 N.J. 172 (1970).* Only decisions of the New Jersey State Supreme Court, the State's highest court, are reported in the New Jersey Reports. This particular case can be found in volume 309 of the Reports at page 476, and was decided by the State Supreme Court in 1970.

One other strategy which can be enjoyable and educational activity for the students is to divide them into small teams and have them prepare colleges--using newspaper and magazine clippings--which depict the facts and issues in the case. This objective is to employ a non-verbal approach to the case study method. As an example, consider the Tinker case again. The facts include students, Vietnam war protest, a school setting, parental support for the plaintiffs, suspension from school by the principal and so on. Therefore, a collage representing the facts of the case might include such things as pictures of protestors (perhaps arm bands could be added with a black felt pen), photographs of war, scenes of a school building and/or classroom activities, older people depicted behind the students, and/or picture of a "principal" figure shaking his finger at the youths'. In addition to illustrations, words can be used by cutting out letters and affixing them to the paper or cardboard. Collages of issues representing the conflicting points of view in a case can also be prepared by the students. The collages can later be displayed on the classroom bulletin board, thereby giving recognition to their efforts.

Decision and Opinion(s):

The *decision* in a case is a simple "yes" or "no" response to the central issue. Decision-making is an everyday happening in law. It is a challenging

lesson to students that a decision must be made to resolve the problem--someone will win and someone will lose. It should be noted that there are two results of any decision: first, the guilt or innocence of the particular individual(s) involved is settled: secondly, a precedent is set which will affect society wherever future cases of this sort arise.

The opinion must include both the reasoning or justification for the decision and an explanation of why the opinion disagrees with or can refute other points of view. This reasoning provides the student with appreciation of precedent and an understanding of various legal concepts. Alert students to the possibilities for varying interpretations of the law by judges. As court opinions are read and discussed, distinctions should be noted between real statements of law and judges' expressions of "obiter dicta" (incidental or collateral opinions which are not necessary to support the decision and not binding). Also, there may be value in examining minority dissenting opinions (if the decision was not unanimous) or concurring opinions. Justices often write concurring opinions when they agree with the majority decision but for different reasons and wish to indicate that they might decide differently under other circumstances.

It is useful for teachers to be aware of a few similar cases in a subject area. Other cases which are relevant occur but the facts may be slightly different (and where the court may have reached a different verdict). Discussions which begin with a statement such as "Now, what about a slightly different situation in which..." can be used to further clarify the reasoning of the court. For instance, would the court have acted differently if Tinker had appropriated the school's newspaper to verbally express his views rather than wearing a symbolic armband?

Case Studies:

One technique for inquiry is the case method. By using case studies, whether real or hypothetical, students can analyze conflicting points of view and grapple with the realities they face each day in their relationships with other people. A case which is chosen to present unsettled legal questions can be a very successful classroom approach. After discussion, students should feel free to leave the class with differing opinions on the issues of the case and/or the decision which the court may have rendered. In fact, this disagreement can create a classroom atmosphere favorable to the introduction of additional resource material for background or perhaps an outside speaker who can provide new data on the subject to the class.

Any case study which has been adjudicated by a court can be broken down into the following elements for study purposes: Facts, Issues, Decisions, and Opinion(s).

Facts: Students should be asked to list the facts in a case. They should be made aware of the importance of this exercise, since everything else in the case hinges on an accurate accounting of the facts involved. The teacher can ask the students to enumerate them according to the following categories:

(a) Uncontroverted facts - those not subject to challenge or dispute (students should point to specific citations in the case).
(b) Implied or inferred facts - those which logically follow the uncontroverted facts (students should justify the inferences or implications they have made, they may not be right, but at least they should be reasonable assumptions).
(c) Missing facts - other things, which one needs to know before reaching a decision, that were not stated in the case.
(d) Important facts - as opposed to the irrelevant or inconsequential facts.

A number of strategies can be used in presenting the facts. Sometimes the teacher may want to provide the students initially with only the facts, even

though a case has been adjudicated, so that students are free to form their own opinions. The court decisions can be handed out later and a discussion held as to why student decisions differ from the court's verdict, if in fact they do.

Before class, the teacher could prepare a tape recording stating the facts of the case, and play it more than once in a class to illustrate what really are uncontroverted facts. Did students perhaps hear the tape differently? A variation on this approach would be to use a few students to create a videotape or role-play depicting the facts. This simulates a real-life situation as student witnesses to the facts must try to report them accurately, with possible conflicting testimony.

Issues: The most critical part of any case study is the issue(s), since the decision in a case is based on what the issues are perceived to be. It is essential to focus on the issues involved in a case, so that far-ranging "bull sessions," which take up precious class discussion time, can be avoided. The teacher may wish to solicit the assistance of a good attorney if he feels inexperienced at specifying and isolating the various issues touched upon in a case. Issues can be phrased in terms of "whether or not..." statements. While the case method is second nature to law school students, it is relatively new for those in high school social studies classes. Therefore, the teacher will have to exercise patience in stressing the need to adhere to the stated facts in the case and to the principal issue or issues. Students are being led not only toward a substantive conclusion - for instance, that Tinker (in Tinker v. DesMoines) had a right to wear an arm band in school, but are moving toward a wider awareness of the scope and limits of free expression.

A useful approach to a case study is to examine the question of interested parties. Law is a compromise of competing interests. Ask who the competing parties are in the outcome of a case. What is each person's or group's interest (e.g., students, parents, school board, administration, civil liberties groups, community, etc.)? How would they like the case resolved? Why? How can a decision be reached (if, in fact, that is possible) which takes into account all of these interests? To depict the balance of conflicting issues in the case, the teacher can also draw a set of scales on the blackboard or an overhead transparency and then visually weight the arguments for the plaintiff and for the defendant as the students define them.

STUDENT COMPETENCIES

The competencies of a student are not the same as those for the teacher involved in teaching the subject matter content, but should rigoriously parallel those of the teacher.

The general student competencies are:

Knowledge of the objectives and goals of the class.

High standard of daily class attendance.

Be intrinsically motivated to learn more about the social, economic, and political aspects of his own tribal group in relation to his own role in the society in which he lives.

Be oriented toward the past, present, and future strengths and weakness of his own tribal group in the social, economic, and political arenas.

Be oriented toward "self-determination without termination" and understand the full meaning of self-determination.

Maintain a positive attitude at all times toward himself and his interactions with others.

Inherent desire to gain knowledge.

Develop and maintain good study habits.

Learn to evaluate himself in terms of self improvement.

Learn that "input equals output" in terms of personal contributions.

Learn and understand that tribal government is necessary to his own survival.

The general student responsibilities are:

Acceptance of the general competencies in such a manner as to guarantee success in the learning experiences.

STUDENT EVALUATION

Those students taking the Student Rights and Responsibilities course should be evaluated on the following:

Personal contributions in class.

Successfully completing teacher-developed and commercially written tests.

Daily attendance records.

Successful completion of homework and project assignments.

Classroom involvement through discussions and small seminar group assignments.

Ability to interact with the teacher and student associates.

Ability to challenge the teacher in controversial areas of study.

General understanding of concepts, principles and generalizations within the subject matter area.

UNIT # 1 *BASIC TYPES, JURISDICTION, AND SOURCES OF LAW*

Major Concepts: Each student should become more aware of:

A. *One of the major goals of the educational system is to help students become responsible members of society. To do this, both juveniles and adults must know what our society demands of them. As individuals before the law, every person should know that with rights there is a responsibility.*

B. *Every student both juvenile and adult should understand the meaning of the word "law" and its relationship to them as members of society.*

C. *Every student both juvenile and adult should understand that "law and laws" are not a rigidly set or fixed body of rules, but a complex relationship and interweaving of court decisions, state and federal statutes, regulations and procedures.*

D. *That our system of laws in the United States reflects usage and practices of many nations and is governed by the Constitution of the United States.*

E. *That all individual rights emanate from the first ten amendments commonly called the "Bill of Rights."*

Outline of Unit:

A. *Types of Educational Systems.*

1. *K-12 (Public-Private-Parochial)*
2. *Junior Colleges, Colleges, and Universities*
3. *Rights and Responsibilities*

B. *Types of Law*

1. *Civil*
2. *Criminal*
3. *Juvenile*

C. *Jurisdiction of Courts (Federal)*

1. *The United States Supreme Court*
2. *Appellate Courts*
3. *District Courts*
4. *Special Courts (Tax, Customs, Military, Territorial, etc.)*

D. *Jurisdiction of Courts (State)*

1. *Supreme Court*
2. *Appellate Courts*
3. *Intermediate (District) Courts*

E. *Jurisdiction of Courts (Local)*

1. *Municipal Courts*
2. *Magistrate Courts*
3. *Justice (JP) of the Peace Courts*
4. *Special Courts (Family, Juvenile, etc.)*

F. *Definition of the word "Law"*

1. *The rules by which we govern ourselves*

G. *Sources of Law*

1. *Code of Hammurahi (Sumerian - 1900 BC)*
2. *Ten Commandments - Moses (Jewish - 1200 BC)*
3. *The Twelve Tables (Roman - 450 BC)*
4. *Corpus Juris Civilis (Code of Justinian) (Roman - 560 AD)*
5. *Magna Carta (British - 1215 AD)*
6. *Petition of Rights (British - 1628 AD)*
7. *Bill of Rights (British - 1689 AD)*
8. *Constitution of the United States (1789 AD)*
9. *Bill of Rights (United States - 1791 AD)*
10. *Case Law (Unwritten law - based on earler decisions of courts in similar cases.)*

11. *Statutory Law (Written law or acts - laws of a nation, state or city.)*

12. *Common Law (Any practice that is commonly applied throughout the nation.)*

13. *Cannon Law (Church Law.)*

H. *United States Constitution*

1. *Contains seven (7) Articles*

2. *Contains to date twenty-six (26) Amendments.*

3. *First Ten Amendments are known as the "Bill of Rights"*

UNIT # 2 ***THE BILL OF RIGHTS***

Major Concepts: *Each student should:*

A. *Gain new and useful knowledge of their individual rights as set forth by the first ten Amendments to the Constitution, the "Bill of Rights." (To include the 14th Amendment)*

B. *Gain new and useful knowledge of topics covered by each of the first ten amendments.*

C. *Understand that as citizens, students, and members of society at large, they must accept the responsibility for these rights within the social framework of their everyday lives.*

Outline of Unit:

A. *Amendment 1. (Religion, Free Speech, etc.)*

1. *Free exercise of religion*
2. *Federal Restraints (State and Local Restraints, i.e., Sunday Closing Laws.)*
3. *Obligations of Citizenship*
4. *Permissible monetary aids to religious organizations and groups*
5. *Freedom of speech and press*
6. *Clear and present danger test (Gillow and Whitney cases)*
7. *Acceptance of clear and present danger test (Roth v. U.S.) (obscenity)*
8. *Control of Public Order and clear and present danger*
9. *Control of Public Morals (obscenity)*
10. *Labor Relations, picketing, and clear and present danger*
11. *Contempt of Court*

12. *Freedom of speech and press in parks and streets*

13. *Censorship*

14. *Taxation and Freedom of the Press*

15. *Federal Restraints on Freedom of Speech and Press*

    a. *Censorship of the mails, fraud orders, and obscenity*

    b. *Regulation of business and labor activities*

    c. *Regulation of Political activities of Federal Employees*

    d. *Legislation, protective of the Military, the Armed Forces and the War Power*

    e. *Loyalty Regulations: The Douds and later cases*

    f. *The Smith Act and prosecution of Communists*

    g. *Group libel*

16. *Freedom of Association*

    a. *Membership disclosure requirements*

17. *Rights of Assembly and Petition*

    a. *Restraints on rights of assembly and petition. (Cruikshank Case 1876 and Hague v. CIO 1939)*

18. *Lobbying and the Right of Petition*

    a. *Federal restraints through the lobbying act of 1946*

NOTE: Lobbying is frequently called the most important expression of the "right of petition." Only selected general topics are covered in this outline and only the most important amendments will be discussed.

H. *Amendment 4. Search and Seizure*

(This amendment denounces only those "search and seizures" as are "unreasonable" and is construed only in the light of what was "unreasonable" when it was adopted and in such a manner to conserve public interests as well as the rights of the individual).

1. *Search and Seizures incidental tc arrest. (Wong Sun v. U.S., 471 - 1963)*

2. *Records, Reports and Suppenas. (Giordinello v. U.S. 357 U.S. 251 - 1938)*

3. *Sufficiency and Effect of Warrants. (Scher v. U.S. 305 U.S. 251 - 1938)*

4. *Search of Vehicles (Brinegar v. U.S., 338 U.S. 160 - 1938)*

5. *Use of Evidence by Federal Officers. (Preston v. U.S. 376 U.S. 364 - 1964)*

C. *Amendment 5. Rights of Accused Persons*

1. *The Grand Jury Clause*

2. *Double Jeopardy*

3. *Self Incrimination*

4. *Due Process of Law*

   a. *Source and evolution of the meaning of the term*

   b. *Scope of the guaranty*

5. *Procedural Due Process*

   a. *Procedural Due Process in General*

   b. *Criminal prosecution in the Jencks case (Jencks v. U.S. 353 U.S.C. 657 - 1957)*

6. *Notice and Hearing (Due Process)*

   a. *Administrative proceedings*

   b. *A fair hearing*

7. *Judicial review of administrative proceedings, etc.*

8. *Evidence and statutory presumptions in judicial proceedings*

9. *Taxation*

   a. *Retroactive taxes*

b. Governance of the Indians

c. The national eminent domain power

D. Amendment 6. Rights of the Accused in Criminal Prosecutions.

1. Offenses Against the United States.

2. Right to a Speedy and Public Trial

3. Trial by an impartial jury

a. Jury must consist of twelve persons

b. Must be supervised by a judge having the power to instruct the jurors as to the law and advise them in respect of the facts, and the verdict must be unanimous.

c. The jury requirement is not jurisdictional and trial by jury may be waived by the defendant.

4. Place of Trial

a. The locality in which the offense is charged to have been committed determines the place court of the trial.

5. Precise Definition of the Crime, Right of Confrontation and Assistance of Counsel.

a. Right to have counsel

b. Right to waive counsel

E. Amendment 7. Civil Trials

1. Trial by jury in civil cases

2. Composition and functions of the jury

3. Courts and cases subject to Guarantee of jury trial

4. Cases not subject to Guarantee of jury trial appeals

F. Amendment 8. Punishment for Crimes

1. Excessive Bail

2. Excessive Fines

3. Cruel and unusual punishments

G. Amendment 9. Rights Retained by the People

1. The right to acquire property and employ it in a lawful business.

H. Amendment 10. Reserved State Powers

1. Federal Taxing Power

2. Federal Police Power

I. Amendment 14. Rights Guaranteed

1. Citizenship

2. Privileges and immunities

3. Due Process

4. Equal Protection

UNIT # 3 RIGHT TO PRIVACY

Major Concepts: Each student should become aware of and understand:

A. That each individual has certain "rights to privacy" under law.

B. That although rights to privacy are guaranteed by law there are always limitations placed on these rights at the Federal, State and Local levels according to the responsibility assumed by the individual.

Outline of Unit:

A. Document dated 20 June 1975. (Sherman Indian High School)

B. Document dated 1 July, 1975. (Sherman Indian High School)

UNIT # 4 STUDENT BODY CONSTITUTION

Major Concepts: Each student should become aware of and understand:

A. The need for a student body constitution as a set of rules to govern their activities in the school environment.

B. The need for a flexible set of rules that can be changed when necessary to fit the needs of the students and the school as the need arises.

C. The need for a form of government within the school environment that serves the purposes of the people, for the people, and by the people.

Outline of Unit:

A. Article I. (Name)

B. Article II. (Purpose)

C. Article III. (Membership of A.S.B.)

D. Article IV. (Details of Organizations of A.S.B.)

E. Article V. (Student Administration)

F. Article VI. (Associated Student Body Accounts)

G. Article VII. (Fiscal Plan of Operation of School Organizations)

H. Article VIII. (Approval of the Constitution of the Associated Student Body.)

UNIT # 5 ***DUE PROCESS IN THE SCHOOL***

Major Concepts: Each student should:

A. *Become more aware of their rights provided by law and that these rights may be defined as encompassing all those specific rights which our courts recognize as being vested in students.*

B. *Gain new and usable knowledge about their own "code of student rights and responsibilities" in their own school.*

C. *Fully comprehend the "implication" that "rights imply responsibility" and that each student must be responsible for the way he or she exercises his or her rights. He or she must accept the consequences of his or her actions as determined by law.*

Outline of Unit:

A. *Student Rights*

B. *Due Process*

C. *Student Responsibility*

D. *Extracurricular Activities*

E. *Student Records*

F. *Student Identification*

G. *Dormitory Schedule*

H. *School Rules*

1. *Infractions*

2. *Homeliving*

3. *Academic*

I. *Procedures on Infractions*

J. *Student Rights in Due Process*

K. *Appeal Rights*

L. Administrative Authority

M. Administrative Protection

N. Discipline Committee

O. Approval Signatures

P. Staff and Student Approval Signatures

UNIT # 6 DUE PROCESS IN THE COMMUNITY

Major Concepts: Each student should:

A. Understand that we are fortunate to live in a country such as ours, where we enjoy more rights, privileges and freedoms than ever before. We should, therefore, be ever mindful that each right, privilege, and freedom is accompainied by an equally important personal responsibility.

B. Understand that one of the most important responsibilities is to know and understand the laws which regulate our lives. Laws are merely a compilation of common sense rules for our own personal protection and that of society in general, and that without laws our existence would be utter chaos.

C. Understand that a law focused educational program in our schools provides us with the knowledge, that prevents us from behaving in such a manner as to show disrespect for the law.

D. Understand that we must respect the law of the community in which we live. Every community employs law enforcement officers to protect its members. Through the presence of the law enforcement officer we are able to live in relative safety and security. Therefore we must show respect for our laws and law enforcement officers. In addition we must become better acquainted with the laws and the law enforcement officers of our community in order to learn how we may better be able to assist law officers in the performance of their duties.

Outline of Unit:

A. Law Enforcement Agencies

1. Department of Public Safety (Highway Patrol)

2. *Sheriffs Department*

3. *City Police Department*

B. *Types of Criminal Offenses*

1. *Felony*

2. *Misdemeanor*

C. *Most Common Offenses and Activities of the Student and the Juvenile in the Community.*

1. *Alcoholic Beverages*

2. *Assult and Battery*

3. *Babysitting*

4. *Contributing to Deliquency*

5. *Disturbing the Peace*

6. *Employment of Minors*

7. *Financial Responsibilities (Ownership of Vehicles and Insurance for same)*

8. *Glue Sniffing*

9. *Hitch-hiking*

10. *Incorrigibility*

11. *Loitering-Curfew*

12. *Malicious Acts*

13. *Maniage*

14. *Miscellaneous Acts*

15. *Moral Offenses*

16. *Narcotics and Dangerous Drugs*

17. *Neglect and Cruelty to Children*

18. *Parties*

19. *Resisting Arrest*

20. *Rights of Minors*

21. *Runaway or Missing Children*

22. *School Laws*

23. *Telephones*

24. *Theft (Shoplifting and Stealing)*

25. *Vehicles and Driving Rules*

26. *Tabacco (Minors)*

    a. *To sell or give to*

    b. *Possession on the School Grounds*

27. *Weapons*

D. *Arrest and Confinement*

E. *Charges and Hearings*

F. *Courts and Jurisdiction*

1. *Justice of the Peace*

2. *City Courts*

3. *District Courts*

4. *Appeals Courts*

5. *State Supreme Courts*

6. *Juvenile Courts*

G. *Confinement and Release*

UNIT # 7 *THE INDIAN BILL OF RIGHTS*

Major Concepts: Students should be aware of and understand:

A. *That the "1968 Indian Bill of Rights" applies to all Federally recognized Indian, Eskimo, and Aleut tribes, bands, Pueblos, communities, villages and rancherias which carry on any self-government functions.*

B. *That this act places responsibility on tribal officials, in much the same manner that the Federal Constitution places responsibilities on Federal and State Officials.*

C. *That this act applies to all tribal officials, including tribal chairmen, tribal governors, tribal council members, tribal judges, prosecutors, and police, officials of special tribal agencies, such as housing authorities and development corporations.*

D. *That because Indian Tribes traditionally have been considered separate soverign governing bodies, the courts have tended to hold that the Federal Constitution does not protect tribal members against the acts of tribal officials.*

E. *That this act, in addition to the Federal Constitution, guarantees to reservation residents many of the rights and liberties in relation to Tribal Authorities that is guaranteed to all persons in relation to Federal and State Authorities.*

Outline of Unit:

A. *Freedom of Religion (Use of Peyote)*

B. *Freedom of Speech in the Tribal Setting.*

C. *Rights of the Accused and Due Process*

1. *Tribal Courts*

2. *Where to get a lawyer*

3. *Police Misconduct*

4. *The Taking of Private Property*

D. *Equal Protection of the Law*

1. *Fair Housing*

2. *Equal Education Opportunities*

3. *Johnson-O'Malley*

4. *Equal Employment Opportunities*

5. *Voting (Local, State, and Federal)*

6. *Voting (Tribal)*

7. *Tribal Constitutions*

E. *Additional Information on:*

1. *How to file a complaint*

2. *Where to get a lawyer*

3. *Discrimination (Reservation Programs)*

4. *Employment Discrimination*

5. *Administrative Appeal of Tribal Ordinances*

UNIT # 3 *SOURCES OF AUTHORITY FOR INDIAN SCHOOLS AND PROGRAMS RELATING TO AMERICAN INDIANS*

Major Concepts: *Each student should be aware of:*

A. *The Code of Federal Regulations (CFR) a legal source authority for laws pertaining to programs for American Indians.*

B. *The Federal Register as a source of information and authority for governance of American Indians.*

C. *The Bureau of Indian Affairs Manual as a legal source of authority for operation of Indian Schools and programs pertaining to Indian People.*

D. *School Policies and Procedures, as it applies to Sherman Indian High School students.*

E. *Levels of authority for operation of Indian Schools.*

Outline of Unit:

A. *Code of Federal Regulations (CFR)*

B. *The Federal Register (FR)*

C. *Bureau of Indian Affairs Manual (BIAM)*

D. *State Education Code*

E. *BIA Local High School*

F. *Levels of Authority*

1. *Congress of the United States*
2. *Department of the Interior*
3. *Office of the Commissioner of Indian Affairs*
4. *Area Office*
5. *Agency*
6. *School*

UNIT # 9 VOTER EDUCATION

Major Concepts: Each student should understand:

A. That we are fortunate to live in a country with a form of representative government that allows us to select our representatives in a democratic manner by a majority vote. Without the "vote" our democratic form of government would revert to a state anarchy.

B. That the recent addition of the 26th Amendment to our Federal Constitution gave the power of the "vote" to all citizens 18 years of age, thereby setting into motion and creating a new political group within our political structure. The power of the vote is the vehicle through which we change our laws, select our representatives who voice our opinions and maintain a stable government on which our way of life is built.

C. That we must have a thorough knowledge of what the vote is, how we use it to its best advantage to maintain the highest ideals of a democratic society.

D. That each individual eligible to vote must assume the responsibility for Voting, whether it is at the Local, State, Federal, or Tribal level.

Outline of Unit:

A. Eligibility to Vote
B. Registering to Vote
C. Issues
   1. School

2. Community

3. County

4. State

5. Federal

D. The Party System

E. The Candidates

F. Campaigning

G. Types of Political Assemblies

H. Planning an Assembly

I. Campaign Materials

J. Procedures for filing for Office

K. Voter Registration

L. Voter/Candidate Qualifications

M. Sample Ballots and Voting Procedures

N. Voter Registration Forms

O. Political Party Platforms

P. Political Organizational Resources

Q. Media Systems

1. Phamplets

2. Posters

3. Radio

4. Television

5. Personal Appearances

R. How to Lose an Election

UNIT # 10 **FAIR TRIAL/FREE PRESS**

Major Concepts: *Each student should understand:*

A. *That while he or she has a "right" or a fair trial, other people have a "right" to inform the public through the press (newspapers) of the progress of the trial. If this is true, can the concept of a "fair trial" hold true?*

B. *That there is a great concern over the conflict between the right of a free press to report to investigate and report to the public on criminal activity and the right of a defendant to a fair trial.*

C. *That the court will have to settle the issues concerning how much publicity before and during a trial is reasonable and fair to the defendant and how much information the press is allowed to print for the public. Any type of media exposure of a defendant influences people and the reasonableness of media exposure of a trial is always in question.*

Outline of Unit:

A. *Freedom of the Press*

B. *Fair Trial/Free Press*

C. *Jury Quest*

D. *Role of the Media*

E. *Justice in America (Problems)*

F. *Case Studies*

G. *How to Find Legal Cases*

H. *Vocabulary*

I. *Specific Cases:*

1. *Dr. Sam Sheppard (384 U.S. 333 - 1966)*
2. *Toledo Newspaper Company v. U.S. 247 U.S. 402 - 1918*
3. *Bridges v. California 313 U.S. 252 - 1941*
4. *Marshall v. U.S. 360 U.S. 310 - 1959*
5. *Estes v. Texas, 381 U.S. 532 - 1965*
6. *Sheppard v. Maxwell, 384 U.S. 333 - 1966*

UNIT # 11 *CONSUMER RIGHTS AND RESPONSIBILITIES*

Major Concepts: Each student should understand:

A. *That we are living in a very complex business world and that not everyone has the "ready cash" to pay for the necessities and small luxuries of life. We are committed to a society of credit and time purchasing of products, services and labor - as a result we have a responsibility to ourselves and to the merchants of the community we live in to have a knowledge of what we are doing when we exercise our buying power and buy items of need on a time or credit plan.*

B. *We are responsible under law for our actions and our behavior in the market place of business. Today we cannot accept a "handshake" as a way of making agreements. Our business world of credit is built on "written contracts" and an agreement both morally and legally to pay on time, when payment is due.*

C. *That although oral contracts are still being used to a small extent in some parts of the United States, written contracts are considered to be the most acceptable means of doing business under law.*

Outline of Unit:

A. *Types of Contracts*

1. *Oral*
2. *Written*
3. *Conditional Sales*

4. *Chattel Mortgages*

5. *Promissory Notes*

6. *Sales Contracts*

B. *Elements of a Contract*

1. *Consent of both parties*

2. *Legal purpose or object*

3. *Consideration price*

4. *Legal Capacity of both parties*

5. *Interest rates*

6. *Title of ownership*

7. *Warranty*

C. *Buying and Selling*

D. *Debtors and Creditors*

E. *Wills and Inheritance*

F. *Family*

G. *Partnerships*

H. *Insurance*

I. *Civil Wrongs*

J. *Criminal Wrongs*

K. *When to Call a Lawyer*

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AUDIO-VISUALS
(LAW-RELATED)

Source: BFA Educational Media
2211 Michigan Avenue
Santa Monica, California 90404

Series: Bill Of Rights In Action

Film Title and Level:
Due Process of Law - 16mm - Secondary
Equal Opportunity - 16mm - Secondary
Freedom of Religion - 16mm - Secondary
Freedom of Speech - 16mm - Secondary
The Privilege Against Self-Incrimination - 16mm - Secondary
The Right to Privacy - 16mm - Secondary
The Story of a Trial - 16mm - Secondary
Consumer Power - 16mm - Secondary
Changing the Law - 16mm - Secondary
Compaign: American Style - 16mm - Secondary

Source: Churchill Films
622 North Robertson Boulevard
Los Angeles, California 90069

Series: Bill of Rights In Action

Film Title and Level:
Interrogation and Counsel - 16mm - Secondary
Justice Liberty and Law - 16mm - Secondary
Search and Privacy - 16mm - Secondary

Source: Encyclopedia Britannica
Educational Corporation
425 North Michigan Avenue
Chicago, Illinois 60611

Series: Law-Related Films

Film Title and Level:
The Lemonade Stand - 16mm - Secondary (What's Fair)
Equality Under the Law - 16mm - Secondary
Liberty Under Law - 16mm - Secondary (The Schemp Case)
The Sheppard Case - 16mm - Secondary
Justice Under Law - 16mm - Secondary (The Gideon Case)

Source: *Guidance Associates*
Pleasantville, New York 10570

Series: *Law In A Democracy and Values*

Sound Filmstrip:
Title and Level: *Consequences for the Convicted SFS - Secondary*
Juvenile Thief - FS - Secondary
Marijuana Possession - SFS - Secondary
The Student Press - FS - Secondary

Source: *Learning Corporation of America*

Series: *Concepts*

Film Title and Level: *Why We Have Elections - 16mm - Secondary*
Why We Have Laws - 16mm - Secondary
Trouble With The Law - 16mm - Secondary
Conscience and Conflict - 16mm - Secondary

Source: *McGraw-Hill Films*
330 West 42nd Street
New York, New York 10036

Series: *Law Related*

Film Title and Level: *Treaties Made - Treaties Broken - 16mm - Secondary*
System of Order (Law) - 16mm - Secondary

LIST OF SUPPLEMENTAL MATERIALS

1. *Constitution of Associated Student Body of Sherman Indian High School or From Your School*

2. *Code of Student Rights and Responsibilities*

3. *Right to Privacy Documents (2)*

4. *Rules and Regulations - Bureau of Indian Affairs CFR 25, Part 35 - Student Rights and Due Process*

5. *Constitution Vocabulary*

6. *Legal Glossary*